

REMARKS

Claim Status

Claim 17 remains pending in the application.

Rejections under 35 USC 103

I. Claim 17 stands rejected under 35 USC 103(a) as being unpatentable over Buckley (US 6,632,347 B1) in view of Kaczur et al. (US 5,106,465) and further in view of Capuano (US 4,542,008).

II. Claim 17 also stands rejected under 35 USC 103(a) as being unpatentable over Kelley (6,306,281 B1) in view Capurano (US 4,542,008), and further in view of Buckley (US 6,632,347 B1), and further in view of Kaczur et al. (US 5,106,465).

III. Claim 17 is also rejected under 35 USC 103(a) as being unpatentable over Buckley et al. (US 6,632,347 B1), in view of Kaczur et al. (US 5,106,465), and further in view of Capuano et al. US 4,542,008) and further in view of Hei et al. (US 6,663,902 B1).

IV. Claim 17 is also rejected over Kelley US 6,306,281 in view of '008/'347/'465/'902, all as cited above.

Previous arguments made in support of patentability continue to apply, but will not be extensively repeated herein for the sake of brevity.

With regard to grounds for rejection I., the Examiner cites MPEP 2115 for the proposition that the "material worked upon by a structure being claimed does not impart patentability to the claims." (Office Action, page 5.)

Applicants must again respectfully disagree with this analysis. As recited in Claim 17, the tablet provides slow release of the halogen dioxide salt by virtue of a controlled release agent. That released salt then provides the halogen dioxide feed solution upon which the electrolysis cell acts. The claimed system, by itself, properly recites the element "chamber comprising a slow dissolving tablet of halogen dioxide salt." Nothing in any combination of '347/'465/'008 suggests such element.

With regard to the grounds of rejection II., it is again noted that the combination of documents must be fairly read to focus on systems that employ brines during the electrolysis. Systems that employ the herein-specified element of a slow dissolving tablet

in a chamber to provide the brine at the controlled rate specified herein are not fairly suggested.

With regard to the grounds of rejection III., two propositions of law relative to §103 immediately suggest themselves.

First, the piecemeal reconstruction of the invention by finding its individual elements in disparate documents and then combining them to arrive at the invention is not the standard of §103. MPEP §2142 the court in *Panduit Corp. v. Dennison Mfg. Co.*, 1 USPQ2d1593, 1595-96 (Fed. Cir.) *cert. denied*, 481 U.S.1052 (1987) addressed this specific issue, as follows:

Inventions typically are new combinations of existing principles or features . . . The 'as a whole' instruction in title 35 prevents evaluation of invention part by part. Without this important requirements, an obviousness assessment might break an invention into its component parts (A+B+C), then find a prior art reference containing A, another containing B, and another containing C, and on this basis alone declare the invention obvious. Section 103 precludes this hindsight discounting of the value of new combinations by requiring assessment of the invention as a whole."

Second, even assuming *arguendo* that a piecemeal reconstruction of the present invention would, somehow, be appropriate, it is submitted that such a reconstruction would have to be available from the analogous art. MPEP 2141.01 (a).

It is noted that the compositions of Hei '902 are disclosed for us in biocidal compositions that function by the chemical reaction between specified iodine and chlorine compounds. See column 5. Nothing therein relates to electrolysis cells. Accordingly, '902 is not analogous art under MPEP 2141.01.

Moreover, the purported hindsight combination of '902 with the other cited documents is impermissible under MPEP §2141.

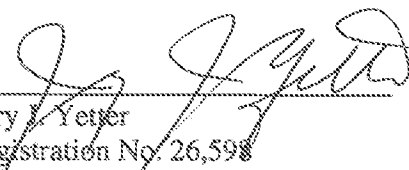
With regard to grounds of rejection IV., Applicants must again recite the above-noted sections 2142 and 2141.01 of the MPEP. Said another way, to sort-through the cited combination of five separate documents, most of which relate to brines, as noted above, and to purportedly abstract therefrom only the elements of Claim 17 flies in the face of the *Graham* standards of obviousness. Withdrawal of the rejection on this basis is requested.

In light of the foregoing, reconsideration and withdrawal of all rejections of Claim 17 are requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Jerry L. Yetter
Registration No. 26,598
(513) 983-6470

Date: December 1, 2011
Customer No. 27752